

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5771 OF 2005

Mr. Shankar Prasad G. Pandey & Ors. ..Petitioners

Versus

State of Maharashtra through Dept.of
Co-op.& Textile Mantralaya,Mumbai & Ors...Respondents

Mr. C.J.Sawant with V.C.Ghosalkar for the Petitioners.

Mr. A.H.Palekar, AGP for the Respondent No.1-State.

Mr.N.N.Bhadrashete for the Respondent No.4.

CORAM : S. A. BOBDE, J.

DATED : 05th SEPTEMBER, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr. Palekar, AGP waives service of rule for
the respondent No.1 -State and Mr.
N.N.Bhadrashete for the respondent No.4.
Heard by consent.

2. The petitioners have challenged the order in

revision by which the authority has refused stay of the proceedings before the District Deputy Registrar under section 101. It appears that one of the contentions raised on behalf of the petitioners was that the District Deputy Registrar has no jurisdiction to try recovery proceedings in view of the fact that the recovery is above Rs. Ten lakhs. Mr. Sawant, the learned counsel for the petitioners fairly stated that that issue is pending adjudication and that he is not pressing that issue here.

3. However, the learned counsel for the petitioners stated that there are serious disputes on facts and the respondents have made exaggerated claims which have no basis whatsoever. According to the learned counsel, the petitioners have applied for leading evidence and those applications are pending. It is clear that a party against whom a recovery is sought is entitled to question whether any amounts are due to the bank and therefore, is entitled to produce such evidence as may be advised. Therefore, I am of view that the parties shall be at liberty to adduce such evidence regarding the disputed amounts.

4. However, having regard to the order passed by

the Divisional Joint Registrar in revision, which merely refuses stay to the petitioners and directs the District Deputy Registrar to take decision on merit and pass a reasoned order. I see no reason to interfere. All issues are open before the District Deputy Registrar. The District Deputy Registrar to decide the matter as expeditiously as possible and in any case not later than three months.

5. Rule is disposed of in the above terms.

DT.05.09.05

(S.A.BOBDE, J)

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